

Division of Securities  
Utah Department of Commerce  
160 East 300 South  
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Salt Lake City, UT 84114-6760  
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BEFORE THE DIVISION OF SECURITIES  
OF THE DEPARTMENT OF COMMERCE  
OF THE STATE OF UTAH

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IN THE MATTER OF:

TRAVIS J. ARNOVICK,  
  
Respondent.

STIPULATION AND CONSENT  
ORDER

Docket No. SD-05-0026

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The Utah Division of Securities (Division), by and through its Director of Enforcement, Michael Hines, and Travis J. Arnovick (Arnovick or Respondent) hereby stipulate and agree as follows:

1. Arnovick was the subject of an investigation conducted by the Division into allegations that he violated certain provisions of the Utah Uniform Securities Act (the Act), Utah Code Ann. § 61-1-1, et seq, as amended.
2. In connection with that investigation, on June 6, 2005, the Division issued an Order to Show Cause to Arnovick.
3. On August 23, 2005, the Division entered a Default Order against Arnovick for failure to reply to the Order to Show Cause, which included a fine of \$15,000.

4. Arnovick and the Division have agreed to settle this matter by way of this Stipulation and Consent Order (Consent Order).
5. Arnovick is represented by attorney Jeff Gallup and is satisfied with the legal representation he has received.
6. Arnovick admits the jurisdiction of the Division over Arnovick and over the subject matter of this action.
7. Arnovick waives any right to a hearing to challenge the Division's evidence and present evidence on the Arnovick's behalf.

THE DIVISION'S INVESTIGATIVE FINDINGS

8. From December 2003 to May 2005, the Division conducted an investigation of Arnovick which revealed the following:
  - a. Travis J. Arnovick resides in Salt Lake County, Utah. Arnovick was an officer of the Lazy Moon, a Utah corporation. The Lazy Moon was a restaurant / nightclub in downtown Salt Lake City. Arnovick was also listed as a member and registered agent of Resonant Sounds, LLC, a Utah limited liability company. Registration for both the Lazy Moon and Resonant Sounds has expired.
  - b. In August 2001, Arnovick offered Frayne Zvonaric (Zvonaric), a Utah resident, an investment opportunity in the Lazy Moon. Arnovick told Zvonaric he could become partial owner of the club without having to get involved in management obligations or day-to-day operations.
  - c. Arnovick also told Zvonaric that Arnovick and the other general partners of the Lazy Moon, Mike Mendenhall (Mendenhall) and Dustin Pebbles (Pebbles),

wanted a maximum of five investors to share in expenses and receive dividends from the Lazy Moon's profits. Arnovick gave Zvonaric written information about the Lazy Moon's assets, operating history under prior management, liquor license and registration certificates.

- d. In connection with the offer and sale of the investment to Zvonaric, Arnovick made the following representations:
  - i. That Zvonaric could liquidate his investment at any time;
  - ii. That Arnovick would personally guarantee Zvonaric's investment and, if necessary, cash out Zvonaric with personal funds;
  - iii. That Zvonaric's investment would be used for remodeling and preparing the club for operation; and
  - iv. That Zvonaric would receive approximately \$1,000 each quarter beginning in the second year of operations.
- e. The above mentioned representations were false. Zvonaric was never able to liquidate his investment, he received no profits from his investment, and according to Zvonaric's investment agreement, his money was invested in Resonant-Moon, Ltd.<sup>1</sup>, not the Lazy Moon.
- f. In connection with the offer and sale of the investment to Zvonaric, Arnovick failed to provide Zvonaric with certain material information which would have

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<sup>1</sup> Resonant-Moon, Ltd. is the name that appeared on the investment contract Zvonaric received from Arnovick. Arnovick acknowledged the mistake, and told Zvonaric he would change it to read "Lazy Moon," although he failed to do so. Resonant-Moon, Ltd. is not a registered entity in Utah.

allowed him to make an informed investment decision. Arnovick failed to provide Zvonaric with the following material information:

- i. The salaries or compensation that would be paid to managers or partners of the Lazy Moon;
  - ii. Financial statements for the Lazy Moon;
  - iii. An explanation as to how the investment would make money;
  - iv. The other partners' related experience in operating a club;
  - v. The amount of money to be raised from investors;
  - vi. Competition in the industry;
  - vii. A proposed budget;
  - viii. The current assets, debts, or liabilities of the business or principals;
  - ix. The degree of risk involved;
  - x. Whether there was a potential conflict of interest; and
  - xi. Whether the investment was registered or exempt from registration.
- g. In reliance on Arnovick's representations, Zvonaric invested a total of \$10,000 cash in the Lazy Moon. In August 2001, Zvonaric made the investment in two separate payments of \$5,000 cash. The first \$5,000 payment was made on August 7, 2001, and the second on August 11 or 12, 2001. Both payments were given to Mendenhall at the Lazy Moon in Salt Lake City.
- h. Zvonaric received nothing from his investment in the Lazy Moon.
- i. On August 1, 2001, Arnovick telephoned Dallas Hall and offered him an investment opportunity in the Lazy Moon.

- j. Arnovick told Hall he needed \$7,000 to purchase the Lazy Moon from the previous owners and secure operating capital. Arnovick told Hall that:
  - i. he had an investor pool that would share in the expenses and profits of the Lazy Moon;
  - ii. that the Lazy Moon was currently owned by a group who also owned local Salt Lake City clubs Sociables and American Bush;
  - iii. that the Lazy Moon had been operating successfully for several years under a different owner;
  - iv. that the Lazy Moon would be managed by Resonant Sound; and
  - v. that Dustin Pebbles and Mike Mendenhall were partners with Arnovick.
- k. Arnovick told Hall he would either give him a promissory note, or make Hall a partner in the Lazy Moon, if Hall invested \$10,000.
- l. In connection with the offer and sale of the investment to Hall, Arnovick made the following representations:
  - i. That Arnovick would personally guarantee Hall's investment;
  - ii. That Hall's investment would be used to acquire the club from the previous owners and secure operating capital; and
  - iii. That a salary was allotted for the principals, but they would not take a salary if the club was not profitable.
- m. The above mentioned representations were false. Arnovick did not follow through on his personal guarantee, Hall's investment money was used by Arnovick for personal expenses, and Arnovick admitted to Hall in February 2003

that Arnovick and Pebbles were both taking salaries despite a lack of profits from the club.

n. In connection with the offer and sale of the investment to Hall, Arnovick failed to provide Hall with certain material information which would have allowed him to make an informed investment decision. Arnovick failed to provide Hall with the following material information:

- i. The salaries or compensation that would be paid to managers or partners of the Lazy Moon, regardless of the profitability of the club;
- ii. Financial statements for the Lazy Moon;
- iii. An explanation as to how the investment would make money;
- iv. The other partners' related experience in operating a club;
- v. The amount of money to be raised from investors;
- vi. Competition in the industry;
- vii. A proposed budget;
- viii. The current assets, debts, or liabilities of the business or principals;
- ix. The degree of risk involved;
- x. Whether there was a potential conflict of interest; and
- xi. Whether the investment was registered or exempt from registration.

o. On August 1, 2001, based on Arnovick's representations, Hall gave Arnovick an investment check for \$7,000, at Hall's place of employment, in Murray, Utah. At this time, Hall was still deciding if he wanted to invest an additional \$3,000 and become a partner in the Lazy Moon, or receive a promissory note.

- p. At the August 1, 2001 meeting, or shortly thereafter, Arnovick gave Hall a binder with documentation about the Lazy Moon, such as a list of assets and operating expenses and income, based on figures from the prior owners. Hall looked over the information on the Lazy Moon and believed it was a good investment. Arnovick also told Hall he was looking for a maximum of five partners, including Pebbles and Mendenhall.
  - q. At the August 1, 2001 meeting, or shortly thereafter, Pebbles told Hall that Pebbles' father invested \$20,000 in the Lazy Moon. Pebbles also told Hall that Pebbles had experience in bar keeping.
  - r. At the August 1, 2001 meeting, both Arnovick and Pebbles told Hall there was a salary allotted for the principals, but they would not take a salary if the club was not profitable.
  - s. Hall eventually decided to invest an additional \$3,000, for a total of \$10,000, but chose to become a note holder instead of a partner.
  - t. On August 30, 2001, based on representations from Arnovick and Pebbles, Hall gave Arnovick an investment check for \$3,000 at the Lazy Moon in Salt Lake City.
  - u. Hall never received a promissory note from Arnovick to evidence his investment.
  - v. Hall received nothing from his investment in the Lazy Moon.
9. On July 6, 2005, the State of Utah filed a criminal action against Arnovick in Utah's Third District Court, Salt Lake County, alleging two counts of securities fraud and one count of theft, all second degree felonies. The criminal action involves the same subject

matter that precipitated the filing of the administrative action. The criminal action is currently pending.

10. In March 2006, in furtherance of settlement negotiations in the criminal action, Arnovick paid \$4,000 to the Utah Attorney General's office, to be distributed to his investors.

#### THE DIVISION'S CONCLUSIONS

11. Based on the Division's investigative findings, the Division concludes that:
  - a. The investment opportunities offered and sold by Arnovick are securities under § 61-1-13 of the Act; and
  - b. Arnovick willfully violated § 61-1-1 of the Act by making misrepresentations of material fact and omitting to state material facts in connection with the offer and sale of a security.
10. Arnovick admits the substance of the Division's investigative conclusions and consents to the Division entering an Order:
  - a. Requiring Travis J. Arnovick to cease and desist from engaging in any further conduct in violation of the Utah Securities Act;
  - b. Requiring that Travis J. Arnovick pay a fine of ten thousand dollars (\$10,000) to the Division, to be reduced dollar for dollar by any money Arnovick returns to his investors by Friday, June 30, 2006; and
  - c. Replacing the Default Order entered against Travis J. Arnovick on August 23, 2005, with the Order accompanying this Stipulation.
11. Arnovick acknowledges that this Consent Order, upon approval by the Division Director, shall be the final compromise and settlement of this matter. Arnovick further



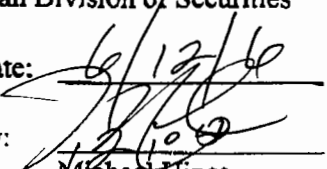
acknowledges that if the Division Director does not accept the terms of the Consent Order, it shall be deemed null and void and without any force or effect whatsoever.

12. Arnovick acknowledges that the Consent Order does not affect any civil or arbitration causes of action that third parties may have against Arnovick arising in whole or in part from his actions, and that the Consent Order does not affect any criminal cause of action that a prosecutor might bring.
13. This Consent Order constitutes the entire agreement between the parties herein and supersedes and cancels any and all prior negotiations, representations, understandings, or agreements between the parties. There are no verbal agreements which modify, interpret, construe, or otherwise affect this Consent Order in any way.
14. Violation of this Consent Order is a third degree felony pursuant to § 61-1-21(1) of the Act.
15. Arnovick has read this Consent Order, understand its contents, and enter into this Consent Order voluntarily. No promises or threats have been made by the Division, nor by any member, officer, agent, or representative of the Division other than as contained herein, to induce Arnovick to enter into this Consent Order.

Utah Division of Securities


Date:

By:



  
Michael Hines  
Director of Enforcement

Respondent

Date:

  
Travis J. Arnovick

Approved:

  
\_\_\_\_\_  
Jeff Gallup  
Attorney for Respondent  
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Jeff Buckner  
Assistant Attorney General

## **ORDER**

Pursuant to the terms of the Stipulation and Consent Order defined above, the Director of the Utah Division of Securities hereby orders that:

- a. Travis J. Arnovick CEASE and DESIST from engaging in any further conduct in violation of the Utah Securities Act;
- b. Travis J. Arnovick pay a fine of ten thousand dollars (\$10,000) to the Division, to be reduced dollar for dollar by any money Arnovick returns to investors by Friday, June 30, 2006; and
- c. This Order supercedes and replaces the Default Order entered against Travis J. Arnovick on August 23, 2005.

DATED this 17<sup>th</sup> day of ~~June~~ <sup>July</sup>, 2006.

  
WAYNE KLEIN

Director, Utah Division of Securities




**Certificate of Mailing**

I hereby certify that on the 18<sup>th</sup> day of July, 2006, I mailed, by regular mail, a true and correct copy of the Stipulation and Consent Order to:

Jeffrey M. Gallup  
684 East Vine Street, #3  
Salt Lake City UT 84107

Travis J. Arnovick  
309 E Park Creeke Lane  
Salt Lake City UT 84115

  
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Executive Secretary